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In re Application of	:	DECISION ON
Peter REYNDERS et al	:	
Application No.: 10/533,641	:	
PCT No.: PCT/EP2003/011508	:	PETITION UNDER
Int. Filing Date: 17 October 2003	:	
Priority Date: 04 November 2002	:	
Attorney Docket No.: MERCK-3007	:	37 CFR 1.182
For: MICROSTRUCTURED EFFECT PIGMENTS	:	

This decision is in response to petitioner's "PETITION UNDER 37 CFR 1.182" filed on 29 November 2005. The petition fee of \$400.00 has been charged to Deposit Account No. 13-3402.

### **BACKGROUND**

On 17 October 2003, applicants filed international application No. PCT/EP2003/011508, which claims a priority date of 04 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 21 May 2004. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 04 May 2005.

On 03 May 2005, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because the executed declaration was provided with the name Michael Ukelis, which was not in the international application.

On 29 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date." The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: inventor Ukelis' name does not correspond with that listed on the IA. It also stated that items set forth above must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later. Failure to properly respond will result in abandonment."

On 29 November 2005, petitioner submitted the instant petition, which included an affidavit in support of the name change of the inventor from Michael Schmelz to Michael Ukelis.

### DISCUSSION

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With respect to item (1), the petition fee has been charged to petitioner's deposit account.

With respect to item (2), an affidavit has been provided signed under both names-Michael Schmelz (maiden name), and Michael Ukelis (married named), and setting forth the procedure whereby the change of name was effected. Therefore, item (2) has been satisfied.

For the reasons above, the application may enter into national stage processing at this time.

### CONCLUSION

The petition under 37 CFR §1.182 for change of name of inventor is **GRANTED**. This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **03 May 2005**.



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